1941

K File No. B. Agri Debtors Relief 141

Legal DEPARTMENT

13 BRANCH

Subject:— Governor's Bill No VI of 1941

A Bill to amend the B'Bay Agricultural Debtors Relief Act-1939

(amend of ss. 1, 22, 84, 85, and 86)

Bom VI 1941

P17

File No. B Agri Debtors Relief 141

Std. Sectt. Slip 24 B c.

504-13.

CONTENTS

Legal Department File No B Agri. Debtors Relief /41.

No.	Communication No.	Subject	Pages
		The Madras Agricultural Debtors Relief Act, 1938.	
1)	Amendments O.No.11232 2/12/40.	Amendments to Sections 1,2,3,7,17,19,20,23,25, 31,33(2),34,37,42,47,49, 58,60,66,68,75,76,77,82, and 83	1-7
2)	O.No. 1434 16/2/41.	A Bill to amend the said Act. Sec.1,23,34,36, and 42 to	8-13
3)	GOLD No. 2874 29/3/41.	Publication of the Madras Agriculturists (Amendment) Act, 1941.	15
4)		Notification to amend the said Act	17

Vol.II.
21/4/58.

Office of the L.A.

The requisite draft amendments to the Bombay Agricultural Debtors Relief Act, 1939 , for the purpose of bringing the Act into force only in those areas in which theTenancy Act might be brought into force, are appended.

2. Amendment No. 1 provides for an amendment of section 1 of theAct. Under theamended section, sections 1,2,3,[illegible],17,19, 20,23,25,31,32, 33(2) 34, 37,45,47,49, 3,6[illegible],66,73,76,77, 82 and 83 extend to thewhole of the rovinse of Bombay. With regard to therest of the provisions of theAct, the Provincial Government is empowered to extend them in such areas and bring them into force on such date as it thinks fit. The intention is that the Act is not to extend to the whole of the Province. It willbe extended and brought into force in certain areas only. In these areas boards for adjustment of debts shall be established. The debtors residing in the areas for which the boards are established or belonging to theclass of debtors for whom the boards are established shallbe entitled to thebenefit of all the provisions of theAct. All the debts of any such debtor owing to all the creditors in the Province whether such creditors reside in the area to which all the provisions of theAct are extended or not and and whether the actual transactions have taken place in such area or not will be adjusted. The property of such debtor situated in any area outside such area willalso be held liable. In order thatthis intention may be carried out it is necessary that the provisions of the sections of the Act specified above should be extended to the whole of the Province and brought into force at once. The reasons for doing so in regard to each section are briefly as under.

3. Section 1 is a title, extent and commencement section. It is obvious that the section should extend to the whole of the Province. Section 2 is a definition section. As some of the provisions are to extend to thewhole of the Province it is necessary that this section which defines the expressions

used in these provisions should also extend tothe w... the Province . Section 3 provides that the provisions in sections 17,31, 32, etc. shall not affect the debts and liabilities of a debtor falling under certain heads . For reasons stated below some of these sections e.g. 17,32, will apply to thewhole of herrovince . It follows, therefore, that this section should also be extended to thewhole of the Province. Section 7 lays down the procedure before the Board It gives power to the board to summon and enforce attendance of persons, compel production of documents and issue commission etc. It is necessary that the Board should be ab e to exercise these powers in thewhole of theProvince, Section 17 provides for a plications to be made for adjustment of debts. The application shall be made in respect of all debts due from all creditors wherever residing in theProvince and whether the transactions have taken place in the area to which all the provimmsions of theAct are extended or not. It is essential that this provision should extend to theshole of the Province . Section 19 provides for filing of statement s by creditors and debtors and it is necessary that the section should have operation in the whole of the Province. Section 20 provides for applications for adjustment to be made by a debtor who is jointly and severally liable along with a surety or ather person who is not a debtor. For the same reasons as are stated in regard to section 17, this section should also extent to the whole of the Province. Section 23 provides for applications for recording of settlements by a debtor and any or all of his creditors wherever residing and must, therefore operate in the whole of he Province,For thesame reasons section 25 which provides for certain settlement tobe void should be extended to the whole of he Province, Section 31 provides for natices on creditors to submit statements. The creditors may be residing in any area in the Province and he section should, therefore, extend to the whole of heProvince. Under section 32 debts in respect of which no application for adjustment etc. is made are to be void. These debts include debts owing to

creditors

creditors in the whole of the Province. Section 33(2) requires every creditor wherever residing in the Province to produce books of account before the board. Section 34 empowers the board to summon persons before it who may reside in any area in the Province. Section 37 provides for transfer of pending suits and applications to the board. These suits will include suits pending in any court situated in any area in the Province. Section 47 empowers the board to declare certain transactions purporting to be sales to be in the nature of mortgage. These transactions would include transactions entered into by the debtor in any area in the Province and in respect of property situated anywhere in the Province. Section 49 declares fraudulent alienations of property by a debtor to be void. The section would cover property situated allover the Province. Section 53 provides inter alia that no sum in excess of the amount of debts scaled down shall be recoverable from any property belonging to a debtor and that his property shall not be liable to be attached, sold or proceeded against in any ~~manner~~ manner in execution of any decree or order against him in so far as such decree or order is for an amount in excess of the amount scaled down. The property referred to in this section include property situated in any area in the Province. Section 63 ⊗ the award is executable as a decree of the court. The awards, under the section, will be executable in the whole of the Province. Under section 65 certain alienations by a debtor of the property included in an award are not valid. The property referred to in this section would include property in any area in the Province. Similarly the property referred to in section 66 which a board or court may order to be sold includes property situated anywhere in the Province. Section 73 bars certain suits and proceedings. Under the section the suits and proceedings of the kind referred to therein would be barred in all courts in the Province. The creditors entitled to certificates under section 76 would include creditors residing in any area in the Province. Section 77 refers to alienations

⊗ refers to executing awards under the Section, the award =

of

V.V.K.
28/4/66.

of standing crops. These may also be from land situate anywhere in the Province. It is necessary that all these provisions should operate in the whole of the Province. Section 82 and 83 contain provisions regarding penalty and rules. It is obvious that these provisions which go with the above provisionsshould also extend to the whole of the Provi-nce.

4. Amendments 2 to 5 provide for other consequential amendments in the Act. Revenue Department should consider whether any futher amendments are necessary.

Sd/-
O.C. 22/12
Remembrancer of Legal Affairs.

U.R. to R.D. No. 11243, dated the 23rd December 1940.

V.V.K.
21/4/58.

Office of the R.'s.A.

A revised draft Bill together with a preamble is appended.

2. Amendments Nos. 2 and 3 at pages 19 to 20 ante have been further revised from the drafting point of view (see clauses 3 and 5 of the revised draft Bill).

3. It may be pointed out that section 4 of the Bombay Agricultural Debtors Relief Act, 1939 provides for establishment of a board (i) for any local area or (ii) for any class of debt or in any local area. The amendments contained in the Bill (see clauses 4 to 6) are designed on the assumption that the present intention of the Revenue Department is to establish boards only for local areas and not for any class of debtors in any area.

4. Under executive instructions the Bill requires the previous approval of the Governor General before enactment. It does not require to be reserved for the consideration of the Governor General under section 80(1) of the Government of India Act, 1935.

Sd/- [illegible]
16/2
O.S. Remembrancer of Legal Affairs.

O.S. to R.D. No. 1434, date 16th February 1941.

[illegible]
21/4/56.

GOVERNOR'S BILL No. VI OF 1941.

A Bill to amend the Bombay Agricultural Debtors Relief Act, 1939.

WHEREAS it is expedient to amend the Bombay Agricultural Debtors Relief Act, 1939, for the purposes hereinafter appearing;

Bom. XXVIII of 1939.

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. This Act may be called the Bombay Agricultural Debtors Relief (Amendment) Act, 1941. Short title.

2. In section 1 of the Bombay Agricultural Debtors Relief Act, 1939, hereinafter called the said Act— Amendment of section 1 of Bom. XXVIII of 1939.

Bom. XXVIII of 1939.

(*a*) in sub-section (*2*)—

(*i*) for the figures and word "17, 23, 32, 37 and 73" the words, ~~figures~~ and brackets "2, 3, 7, 17, 19, 20, 23, 25, 31, 32, sub-section (*2*) of section 33, 34, 37, 45, 47, 49, 53, 63, 65, 66, 73, 76, 77, 82 and 83" shall be ~~inserted~~; and

(*ii*) for the words commencing with the words "and the rest of the Act" and ending with the words "island of Bombay", the words "The Provincial Government may, by notification in the Official Gazette, extend all or any of the remaining provisions of this Act to such area other than the City of Bombay as may be specified in the notification." shall be substituted; and

Acts.

Publication of the Bombay Agricultural Debtors Relief (Amendment) Act, 1941.

Legal Department.
Resolution No. 2873

Bombay Castle, 29th March 1941.

Letter to the Secretary to the Governor No. 2419, dated the 18th March 1941.

Letter from the Secretary to the Governor No.2 1(29) dated the 21st March 1941.

"With reference to your letter No.2419, dated the 18th March 1941, forwarding a copy of a Bill to amend the Bombay Agricultural Debtors Relief Act, 1939, prepared by His (2) of the Proclamation dated the 4th November 1939 issued by Him under section 93 of the

the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

2. The copy of the Bill is return herewith with its

RESOLUTION. - The law should be published as Bombay Act No. VI of 1941, in the Bombay Government Gazette dated the 29th March 1941.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devanagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department dated the 10th March 1941.

By order of the Governor of Bombay,

Sd/-

For { P.H.Koos,
{ Secretary to Government.

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department.

The Revenue Department.
The Oriental Translator to Government, Bombay
The Secretary, Bombay Legislative Council,

The Secretary, Bombay Legislative Assembly.)With a copy of theACT.

*With five extral Copies.

V.V.K.ॐ 21st April 1956.

17 17(

NOTIFICATION.

Revenue Department.

Bombay Castle , March 1941.

No. :- In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay ~~is Extn~~ Agricultural Debtors Relief (Amendment) Act, 1941(Bom. VI of 1941) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary toGovernment.

V.V.K.-21st April 1953.

SWA 1575